

Applicants respectfully traverse the §102(e) and §103(a) rejections, and request reconsideration of the present application in view of the following remarks.

With regard to the §102(e) rejection, Applicants initially note that the Manual of Patent Examining Procedure (MPEP), Eight Edition, August 2001, §2131, specifies that a given claim is anticipated “only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference,” citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, MPEP §2131 indicates that the cited reference must show the “identical invention . . . in as complete detail as is contained in the . . . claim,” citing Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). For the reasons identified below, Applicants submit that the Examiner has failed to establish anticipation of at least independent claims 1, 14 and 27 by the Araujo reference.

Independent claim 1 is directed to a method for use in configuring a device coupled to a communications network. The method includes the steps of automatically determining a link type associated with a communication link between a first device and at least one additional device coupled to the communications network by transmitting one or more messages from the first device and examining a corresponding response received by the first device over the communication link, and configuring at least one of the first and additional devices in accordance with the determined link type.

In an amendment filed February 3, 2004, Applicants amended independent claim 1 to clarify that the communications network comprises a local network and one or more additional networks coupled to the local network, and that the communication link for which the link type is automatically determined is external to the local network, and part of the one or more additional networks. Further, claim 1 as amended indicates that the first device comprises a gateway coupled between the local network and the one or more additional networks, and that the automatic determination of link type is implemented at least in part within the gateway.

The Examiner in formulating the §102(e) rejection argues, with reference to FIG. 1A of Araujo, that the automatic stack determination module 136 of the central office 130 corresponds to the claimed first device, and that the customer premises equipment (CPE) 110 corresponds to the

claimed additional device. The Examiner further states that the claimed local network is “the network including the CPE 110 and the central office 130,” and that the claimed one or more additional networks comprise PSTN 134 and ATM network 137. See the final Office Action at page 2, last paragraph, through page 3, first full paragraph. However, if one were to assume for purposes of argument that this correspondence asserted by the Examiner is correct, then Araujo clearly fails to meet other limitations of claim 1. More specifically, as indicated above, the communication link for which the link type is automatically determined in the claimed arrangement is explicitly recited as being external to the local network, and part of the one or more additional networks. The Examiner relies on the teachings at column 7, lines 5-12, of Araujo, which provides as follows:

According to another aspect of the invention, automatic stack determination module 136 sends a transmission to customer premises equipment 110. By observing the response to the transmission and determining in which protocol the response is formatted, the automatic stack determination module 136 detects the protocol used by customer premises equipment 110. Additionally, if no valid response is received to a transmission in a particular protocol, the automatic stack determination module 136 may determine that the particular protocol is not being used by customer premises equipment 110.

The link involved in the relied-upon passage above is part of what the Examiner has defined as being the local network in Araujo. As mentioned previously, the Examiner argues that the claimed local network is the network including the CPE 110 and the central office 130, and that the claimed one or more additional networks comprise PSTN 134 and ATM network 137. Thus, the link between the automatic stack determination module 136 and the CPE 110 is clearly part of the local network identified by the Examiner, and not external to the local network as required by the explicit language of the claim. The limitations of claim 1 are thus not met by the Araujo reference.

Since Araujo fails to teach or suggest each and every limitation of claim 1 in as complete detail as is contained in the claim, as required by the above-cited MPEP §2131, claim 1 is not anticipated by Araujo.

Independent claims 14 and 27 each include limitations similar to those of claim 1 as described above, and are therefore believed allowable for substantially the same reasons that claim 1 is believed allowable.

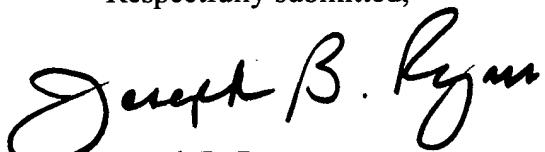
Dependent claims 2-10 and 15-23 are believed allowable for at least the reasons identified above with regard to their respective independent claims. The Abler reference cited by the Examiner fails to overcome the fundamental deficiencies of Araujo as applied to the independent claims.

Moreover, one or more of these dependent claims are believed to define additional separately-patentable subject matter relative to Araujo and the other art of record.

In view of the foregoing, Applicants respectfully submit that claims 1-27 are in condition for allowance, and request withdrawal of the §102(e) and §103(a) rejections.

As indicated previously, a Notice of Appeal is submitted concurrently herewith.

Respectfully submitted,



Date: July 23, 2004

Joseph B. Ryan
Attorney for Applicant(s)
Reg. No. 37,922
Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560
(516) 759-7517

Enclosure(s): Notice of Appeal